



Region Legal Service Office, Naval District Washington Legal Assistance Department

Preventative Law Handout

GARNISHMENTS

WHAT ARE GARNISHMENTS?

Garnishments and involuntary allotments are deductions from a servicemember's pay. A valid court order typically exists indicating that the servicemember has an obligation to pay a certain amount of money.

GARNISHMENT FOR FAMILY SUPPORT

A garnishment can be initiated against an active duty servicemember to pay for child support, or a combination of spousal and child support, **but not spousal support only**. The servicemember must be under a court or administrative order to make the payments and the total amount in arrears (money owed but not paid) must be greater than or equal to two months of payments. Garnishment applies **ONLY** to pay, **NOT** allowances.

A state child support enforcement agent or court sends a letter or order to the military finance center requesting a garnishment (involuntary allotment) be started. The military finance center will notify the servicemember of the involuntary allotment in order to give the servicemember an opportunity to respond in case there has been some type of error. Arrearages can be collected but there must be a second court order requiring payment of the arrearages by involuntary allotment. To start payments, contact DFAS.

MAXIMUM AMOUNT OF GARNISHMENT

- 50% if member is supporting family members other than those for which support has been court-ordered
- 55% if member is supporting other family members other than those for which support has been court-ordered, **and** the support was ordered more than twelve (12) weeks before the current workweek
- 60% if member is **not** supporting family members other than those for which support has been court-ordered
- 65% if member is **not** supporting family members other than those for which support has been court-ordered, **and** the support was ordered more than twelve (12) weeks before the current workweek

A servicemember can assert by affidavit that he or she is supporting other family members (<https://www.dfas.mil/Portals/98/Documents/Garnishments/affidavi1.pdf?ver=2020-01-15-120639-103>).

In the event that your support order (or multiple support orders) exceed the maximum amount allowed to be withheld by federal or state law, you are still responsible for the full amount of the child or spousal support as ordered in the state court. **Maximum involuntary allotment provisions do not shield you from the state court order to pay a specified support order.** You are still responsible for those excess amounts, even though it won't come directly out of your military paycheck. The percentages that can be garnished are separate and distinct from the amount of child support or spousal support, or both, that can be ordered to be paid by a person under state child and spousal support laws. Failure to pay the ordered amounts that are in excess

of the above percentages can and may result in issuance of a tax intercept, inability to get a U.S. passport, negative reports to the major credit reporting agencies, suspension of your driver's license, and/or suspension of your professional license.

MILITARY PAY SUBJECT TO GARNISHMENT FOR ENFORCEMENT OF FAMILY SUPPORT OBLIGATIONS

- Basic pay
- Special pay (including enlistment and reenlistment bonuses)
- Incentive pay
- Accrued leave payments (basic pay portion only)
- Readjustment pay
- Severance pay (including disability severance pay)
- Lump-Sum Reserve bonus
- Inactive duty training pay
- Separation pay

INVOLUNTARY ALLOTMENT FOR CIVIL INDEBTEDNESS/COMMERCIAL DEBT

If a creditor has secured a civil judgment against a servicemember, the creditor may apply for an involuntary allotment from the member's military pay. Unlike garnishments related to family support, involuntary allotments for civil judgments are capped at 25% of the member's disposable pay per monthly pay period. If the member already has other involuntary allotments in place, e.g., garnishments for family support, the creditor will have to reapply when the family support debt is satisfied. And if deductions are already being made to satisfy family support obligations, it is possible that a civil judgment creditor may receive no payments for years.

When a creditor applies for an involuntary allotment, the servicemember is notified. If applicable, the member may invoke any of the following defenses:

- Failure to comply with the Servicemembers' Civil Relief Act
- Exigencies of military duties caused the member's absence from the proceedings (determination rests solely with the member's Commanding Officer)
- Information is false or erroneous
- Judgment has been satisfied, set aside, or materially amended
- Some legal protection against establishing an involuntary allotment exists

MILITARY PAY SUBJECT TO INVOLUNTARY ALLOTMENT

- Basic pay (excluding reduction for education benefits under the Montgomery GI Bill)
- Special pay (including enlistment and reenlistment bonuses)
- Incentive pay
- Accrued leave payments (basic pay portion only)
- Readjustment pay
- Severance pay (including disability severance pay)

RESOURCES

Cornell Legal Information Institute – 15 U.S.C. § 1673 (Restriction on garnishment):

<https://www.law.cornell.edu/uscode/text/15/1673>

Defense Finance and Accounting Service – Garnishment: <https://www.dfas.mil/Garnishment/>

Department of Defense – Financial Management Regulation:

https://comptroller.defense.gov/portals/45/documents/fmr/volume_07a.pdf

This handout is for informational purposes only and is not intended to be specific legal advice. If you need legal advice, speak with an attorney at your nearest Legal Assistance Office. Legal Assistance Offices can be found at <https://legalassistance.law.af.mil/>

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